

ORDINANCE NO. 2019-002

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF COCONUT CREEK, FLORIDA, AMENDING THE CITY'S CODE OF ORDINANCES, BY AMENDING CHAPTER 13, "LAND DEVELOPMENT CODE," ARTICLE III, "ZONING REGULATIONS," DIVISION 1, "GENERALLY," SECTION 13-295, "DEFINITIONS," TO PROVIDE DEFINITIONS FOR PERSONAL SERVICE ESTABLISHMENTS, TATTOOING, AND TATTOO ARTIST; AND DIVISION 4, "ACCESSORY USES AND STRUCTURES," SUBDIVISION I, "IN GENERAL," SECTION 13-371, "ACCESSORY USES GENERALLY," TO ALLOW LICENSED TATTOOING AS AN ACCESSORY USE SUBJECT TO CERTAIN REQUIREMENTS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on December 13, 2018, the City Commission, through consensus, and subsequently through comments on an earlier draft considered at the City Commission meeting held on March 14, 2019, gave City staff direction to implement changes to the City's Land Development Code to provide for licensed tattooing within the City; and

WHEREAS, the City finds that it is in the public interest and the health, safety, and welfare of the community to protect the unique character and aesthetics of the City by providing for this land use as an accessory use to personal service establishments; and

WHEREAS, the City finds that it is also in the public interest and the health, safety, and welfare of the community to protect the safety of particularly vulnerable and valued populations such as children and families through reasonable requirements, such as providing for the use in this manner; and

WHEREAS, the City wishes to regulate the location of tattooing uses consistent with the public interest and the health, safety, and welfare of the community and

consistent with the constitutional protections provided to speech and expression, where same may apply; and

WHEREAS, the City submits that the requirements do not unreasonably restrict the operation of constitutionally protected tattooing uses in the City, and that there is ample opportunity to locate such use as an accessory to personal service establishments within the City; and

WHEREAS, the City has undertaken to investigate and research the secondary impacts of land uses that include licensed tattooing and has learned that the activity is associated with gangs, which are also related to criminal activities including illegal drugs and violence; and

WHEREAS, Broward County is among the Florida counties with the highest incidence of criminal gang activity in the state; and

WHEREAS, the state recognizes the dangers of tattooing of children by prohibiting tattooing of a minor child younger than 16 years of age unless the tattooing is performed for medical or dental purposes, and prohibiting tattooing of a minor child at least 16 years of age but younger than 18 years of age unless the parent or legal guardian consents and accompanies the child; and

WHEREAS, zoning and locational regulations for land uses including tattooing are necessary to prevent deterioration of the community safety and vitality before a problem exists, rather than waiting for problems to be created; and

WHEREAS, the City does not intend to suppress or infringe upon any expressive activities protected by the First Amendment of the U.S. Constitution, but instead desires to enact reasonable time, place, and manner regulations that address the adverse effects

of land uses involving tattooing; and

WHEREAS, the Planning and Zoning Board reviewed the changes to the Land Development Code allowing the land use of licensed tattooing as an accessory use to personal service establishments or medical offices on April 10, 2019, and they voted to approve same; and

WHEREAS, the City Commission finds and determines that this additional land use meets the intent of the City Commission and is in the best interest of the residents and business community of the City of Coconut Creek.

NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF COCONUT CREEK HEREBY ORDAINS:

Section 1: Ratification. That the foregoing “WHEREAS” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance.

Section 2: That the Code of Ordinances of the City of Coconut Creek, Florida, shall be amended by amending Chapter 13, “Land Development Code,” Article III, “Zoning Regulations,” Division 1, “Generally,” Section 13-295, “Definitions,” to read as follows:

Sec. 13-295. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Personal Service Establishment means any licensed business establishment that provides barbering and/or cosmetology services. This term includes barber, salon, and spa services establishments.

Tattooing means any licensed method of placing a mark or design on or under the skin of a human being by a process of piercing and ingraining a pigment, dye, or ink in the skin. This term includes permanent make-up and microblading.

Tattooing artist means a person licensed under Sections 381.00771 – 381.00791 of the Florida Statutes, as may be amended, to practice tattooing. Such individual must apply and receive a business tax receipt in the City of Coconut Creek prior to engaging in the practice of tattooing.

Section 3: That the Code of Ordinances of the City of Coconut Creek, Florida, shall be amended by amending Chapter 13, “Land Development Code,” Article III, “Zoning Regulations,” Division 4, “Accessory Uses and Structures,” Subdivision I, “In General,” Section 13-371, “Accessory Uses Generally,” to read as follows:

Sec. 13-371. - Accessory uses generally.

Accessory uses include, but are not limited to the following:

- (1) Storage of automobiles and domestic equipment by residential users in numbers and amounts consistent with day-to-day domestic use.
- (2) Storage of merchandise normally carried in stock in connection with a business or industrial use, unless such storage is excluded by applicable district regulations or other local, state or federal regulations.
- (3) Storage of goods used in or produced by an industrial use and related activity unless such storage is excluded by applicable district regulations or other local, state or federal regulations.
- (4) Accessory off-street parking space, open or enclosed, subject to the accessory off-street parking regulations contained in Subdivision II of Division 4 of this article for the district in which the lot is located. Carports located in nonresidential zoning districts shall be considered an accessory use.
- (5) Uses clearly incidental to a main principal use. ~~The community development eDirector of Sustainable Development or designee shall determine whether or not a use is clearly incidental to a main principal use. Except when a use is itself exceptional or is carried on in an exceptional manner, it shall be determined to be an accessory use when the following three (3) conditions apply:~~
 - a. The Director of Sustainable Development or designee shall consider whether:
 - a.1. The use is ~~not~~ expressly permitted in some district other than the district where located;
 - b.2. The use is ~~not~~ expressly prohibited in the district where located or in Division 9, “Prohibited Uses,” of this Chapter; and
 - e.3. The use ~~does not~~ occupies more than fifteen (15) percent of the floor area of the principal use. In the event floor area is not an indicative

CODING: Words in ~~strike through~~ type are deletions from existing text.
Words in underline type are additions to existing text.
Asterisks (***) indicate existing text not shown.

measurement of the principal or accessory use, then site area, gross sales, seating capacity, inventory, employees, or hours of operation shall be considered.

~~The community development director may find that uses which do not meet these three (3) conditions are accessory uses, if other conditions clearly indicate such uses to be accessory uses.~~

b. The Director of Sustainable Development or designee shall weigh the findings of the above criteria, and determine if the use is accessory. If any of the above conditions are answered in the affirmative, the use shall not be considered accessory, unless:

- 1. there are other conditions which clearly indicate such uses are a supplementary component of, directly related to, or complementary to, the principal use,
- 2. the use is not overly burdensome to other uses in the immediate area; and
- 3. the use does not create a more intense use than those permitted in the zoning district.

- (6) Accessory off-street loading, subject to the off-street loading regulations for the district in which the zoning lot is located.
- (7) Licensed tattooing may be an accessory use, as determined by the Director of Sustainable Development or designee, pursuant to subsection 13-371(5) above, to a personal service establishment or medical office as defined in Section 13-295, "Definitions," of this Chapter. Accessory signs, subject to the sign regulations for the district in which the zoning lot is located.

Section 4: Conflicts. That all ordinances or parts of ordinances, all City Code sections or parts of City Code sections, and all resolutions or parts of resolutions in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 5: Severability. That should any section or provision of this ordinance or any portion thereof, any paragraph, sentence, clause or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part hereof other than the part declared invalid.

Section 6: Codification. That the provisions of this ordinance shall be codified within the Code of Ordinances of the City of Coconut Creek, Florida, and any paragraph or section may be renumbered to conform with the Code of Ordinances.

Section 7: Effective Date. That this ordinance shall become effective upon its passage on second and final reading.

PASSED FIRST READING THIS 25TH DAY OF APRIL, 2019.

PASSED SECOND READING THIS 9TH DAY OF MAY, 2019.

Sandra L. Welch, Mayor

Attest:

Leslie Wallace May, City Clerk

	<u>1st</u>	<u>2nd</u>
Welch	<u>Aye</u>	<u>Aye</u>
Sarbone	<u>Aye</u>	<u>Aye</u>
Tooley	<u>Nay</u>	<u>Nay</u>
Belvedere	<u>Aye</u>	<u>Aye</u>
Rydell	<u>Aye</u>	<u>Aye</u>

CODING: Words in ~~strike through~~ type are deletions from existing text.
Words in underline type are additions to existing text.
Asterisks (***) indicate existing text not shown.